

### Remarks

The Examiner has withdrawn the rejection of claims 8-11 under 35 U.S.C. 103(a) based on Yamawaki et al (U.S. Pat. No. 6,474,673) for which Applicant thanks the Examiner.

First, the Examiner reconsidered the previous rejection upon closer reading, having realized that “in the range” referred to particle sizes within the range of 0.1  $\mu\text{m}$  to 15  $\mu\text{m}$ , i.e., with 0.1  $\mu\text{m}$  and 15  $\mu\text{m}$  as the endpoints of the range. The Examiner reasoned that even if Yamawaki were to have a particle size of 99 nm from systematic and/or random variations during production, the particles *en toto* would not have had an average particle size of less than 100 nm due to the prevalence of larger particles up to and including 15  $\mu\text{m}$  in size.

Second, the Examiner further recognized that the limitation “nanostructured” for the lithium titanate compound characterizes the claimed invention as being derived from a nanostructured material, in contrast to Yamawaki et al, which is drawn to microstructured material, i.e., starting from micron-sized precursors.

Third, as to unexpected results of particle sizes less than 100 nm, the Examiner acquiesced to Applicant’s assertion that Figure 5 shows a higher retained capacity for lithium titanate particles produced after 15 minutes of annealing (equal to a particle size of less than 100 nm).

In view of the foregoing, the Examiner allowed claim 8-11, closed prosecution on the merits, and required that Applicant either cancel claims 1-7 or follow another appropriate course of action.

In response, Applicant has canceled claims 1-7 as requested to comply with the Examiner’s requirement as set forth in the Office action.

Applicant urges that this application is now in condition for allowance and earnestly solicits early and favorable action by the Examiner. If the Examiner believes that issues may be resolved by a telephone interview, the Examiner is respectfully urged to telephone

the undersigned at (973) 597-6170. The undersigned also may be contacted via e-mail at [blubitt@lowenstein.com](mailto:blubitt@lowenstein.com).

### AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 501,358.

Respectfully submitted,

Lowenstein Sandler PC

By:

A handwritten signature in black ink, appearing to read "Beverly W. Lubit".

Date: September 26, 2006

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